

to the Electricity Board and consequently whether they are entitled to be absorbed under the provisions of section 11 of the Karnataka Electricity Supply Undertakings (Acquisition) Act, 1974.

Whereas the Karnataka Electricity Board has considered the cases of four writ petitioners and have screened them by the Screening Committee constituted under sub-rule 3 of rule 6 of the Karnataka Electricity Supply Undertakings (Acquisition) Rules, 1976, and has agreed to the transfer of three of the petitioners to the Board as its employees ;

Now therefore, Government of Karnataka hereby direct that with effect from 18th December 1974, the services of the following employees specified in column 2 bearing designation in column 3 be and deemed to be transferred to the Karnataka Electricity Board as equated to the cadres specified in column 4 and that from the said date, the said employees shall cease to be employees in the services of the State Government.

SCHEDULE

Sl No.	Name	Designation	Cadre to which equated.
1.	Sri B. B Managoli	Assistant Engineer	Supervisor
2.	Sri V. K. Mohare	Asst. Clerk	First Grade Clerk
3.	Sri K. Kosandal	Typist	Typist.

By Order and in the name of the Governor of Karnataka,

W. C. SHADAKSHARA DEV,

Under Secretary to Government,

Public Works and Elec. , Department

833—S. O. 1444

Notification No. PWD 40 EBS 79.

Bangalore dated 26/27th April, 1979.

In exercise of the powers conferred by sub-rule (2) of Rule 6 of the Karnataka State Electrical (Supply) Rules, 1957. read with item 1 (d) of Annexure 1 to the said Rules and in Partial modification of Government Notification No. PWD 2 EBS 79(1) dated 4th January 1979, Sri M. Sachidananda Murthy, Chairman, Karnataka Electricity Board is sanctioned terminal leave for 86 days earned by him during his term of office as Chairman, Karnataka Electricity Board and he is permitted to get the encashment benefit in lieu of the terminal leave sanctioned. Karnataka Electricity Board may take action to arrange for the disbursement of the encashment benefits.

By Order and in the name of the Governor of Karnataka,

W. C. SHADAKSHARA DEV,

Under Secretary to Government,

Public Works and Electricity Department,

968—S. O. 1445

GOVERNMENT OF KARNATAKA

SOCIAL WELFARE AND LABOUR SECRETARIAT

Labour Dispute.—Industrial dispute between the Workmen and the Management of M/s. Apsara Tailors, No. 25, Cubbonpet, Main Road, Bangalore-2.

Award of the Presiding Officer Labour Court, Bangalore.
Published.

Read the following papers :

1. Letter No. 2080/78-79, dated 14th March 1979 from Sri R. Mujumdar, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, LABOUR COURT,
BANGALORE

Dated this 14th day of March 1979.

Present

Shri M. R. Mujumdar, B.A. (Hons), LL.B.,
Presiding Officer

Reference No. 139 of 1976

First Party—T. A. Aswathiah, Amarakala Orchestra, No. 43, Old Chamarajpet, Cubbonpet, Bangalore-2.

Vs.

Second Party.—The Management of M/s. Apsara Tailors, No. 25, Cubbonpet, Main Road, Bangalore-2.

Reference.—Government Order No. SWL 838 LLD 76, dated 22nd September 1976.

AWARD

1. The Government of Karnataka have referred the following points of dispute for adjudication to this Court vide their Order No. SWL 838 LLD 76, dated 22nd September 1976 :—

I. Whether the management of Apsara Tailors, No. 25, Cubbonpet • Main Road, Bangalore-2, are justified in removing Sri T. A. Aswathaiah from service with effect from 19th July 1975?

II. If not, to what relief the said workman is entitled?"

2. The case was registered as Reference No. 139/1976 and notices were issued to both parties. The I Party Sri T. A. Aswathiah filed his claim statement on 4th May 1977 saying that the II Party is a reputed tailoring shop running for more than 20 years as a proprietary concern. He joined the II Party as a tailor on 10th February 1972 and worked there with good record till August, 1975, when he fell sick and was admitted to hospital on 26th August 1975. After he was discharged from the hospital he went to the respondent with a medical certificate and requested him to resume his work but he was refused work and though he had submitted a demand calling upon the second party to him for work with continuity of service and full wages for the forced period of unemployment, it was not accepted. The conciliation proceedings held at his instance was not fruitful. The I Party is entitled to earned leave, casual leave and sick leave and also wages for the forced period of unemployment from 26th August 1975 till the case is finally disposed off. On these grounds I Party claimed that he be reinstated with continuity of service and full back wages.

3. The Proprietor of the II Party concern, Sri S. H. Krishna Rao, filed his objection on 18th August 1977 denying the claims of the I Party and contending that there was no relationship of employer and employee between him and the I Party. The I Party had approached him for some piece work and as he (II Party) had then more work, gave him some piece work for which he paid the labour charges then and there. Whenever, there was no work II Party was not able to give the I Party heavy work. The II Party Krishna Rao is himself a workman in his shop and he himself is a labourer. The I Party borrowed from him a sum of Rs. 30/- and never paid it back.

4. On 18th August 1977 Issues were framed as per the points of Dispute and thereafter the I Party examined himself as W.W. and the II Party Sri Krishna Rao as M.W. 1. Neither of them produced any records.

5. I Party Aswathiah argued his case and contended that he was a workman with the II Party concern and was removed from

service. It is the II Party who has to justify the removal. Though the II Party denied that I Party workman was with him, he admitted that the I Party workman was working with him. II Party has not maintained any registers as required by the Shops and Establishments Act. He further relied upon the ruling of Supreme Court in 1977 I LLJ 1 (Hindustan Steel Limited case) for support.

6. The II Party Krishna Rao did not appear to argue his case.

7. Except the interested say of the I party Aswathiah that he worked continuously from 1972 onwards for more than 3 years, in the II Party-shop, there is nothing on record to substantiate this claim.

against the statement of W.W. 1, the Proprietor of the II Party-concern Sri Krishna Rao stated on oath that his is a small tailoring shop wherein he himself, his son, his bother-in-law and one casual labourer stitch cloths, he has only 3 sewing machines. The I Party Ashwathiah was not a regular workman under him but only as a casual workman on piece rates and that too for 2 or 3 months. He denied that the I Party was working as tailor with him from 10th February 1972 to 26th August 1975. Though it is suggested to this witness that he had employed 15 workers on permanent basis and had 8 sewing machines, the I Party workman did not adduce any evidence to prove this. If in fact he were working for more than 3 years continuously in the respondent shop and if the said shop was turning out good business and having a large number of customers and if more than 15 workers had been employed in that shop, it should not have been difficult for the I Party Aswathiah to examine at least some of the alleged permanent workmen in the shop or at least some of the regular customers of that shop to prove his claim of having worked in that shop continuously for more than 3 years. Though

stated that after he was discharged from the hospital, he went to the II Party shop with a medical certificate and he was refused work, and thereafter he demanded his reinstatement, there is not even a scrap of paper produced by him in support of the same. Therefore, there is nothing in this case except the self-serving say of the I Party to show that he was continuously working as a tailor with the II Party Krishna Rao for more than 3 years and that he was removed from service on 19th July 1975. The Ruling relied on by I Party does not help him. Unless the I Party proves that he was a workman in the II Party shop and that he worked there continuously